

**STATE WATER RESOURCES CONTROL BOARD
UNDERGROUND STORAGE TANK REGULATIONS
TITLE 23, DIVISION 3, CHAPTER 16, CCR
AMENDMENTS FOR IMPLEMENTATION OF SB 989**

**TABLE OF SWRCB RESPONSE TO COMMENTS
15-DAY COMMENT PERIOD #1 (November 22 to December 11)**

COMMENTERS

NUMBER	NAME
1	BP Western Region
2	County of Los Angeles
3	County of Orange
4	Dennis Rock
5	Modern Welding
6	Pearson Equipment and Maintenance
7	Southern California Technical Advisory Group
8	Tosco
9	Western States Petroleum Association

SWRCB RESPONSES TO COMMENTS ON PROPOSED SB 989 REGULATIONS
15-DAY COMMENT PERIOD # 1 (November 22 to December 11, 2000)
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Section / subject	Comment Number	Summary of comment	Response	Revision needed
2611 / under-dispenser containment	9 - 01	Reword the term "dispenser spill containment or control system" in order to enhance the distinction between it and "under-dispenser containment".	Accepted	Revised definitions in 2611 accordingly
2630 / general applicability of article	9 – 02	For 2630(a) include a specific effective date, or, to reference the definitions of new ust and/or existing usts (i.e., "... Owners of new underground storage tanks <u>(as defined in section 2611)</u> ".	Rejected: not a comment on the proposed regulations	None
2630 / under-dispenser containment	8 - 01	Regarding 2630(d) further clarification is required. The current language, "earliest possible opportunity" lends itself to possible misinterpretations by different regulatory agencies	Rejected: the language means that the agency approved monitoring equipment must be installed in such a manner that it detects a leak at the earliest possible opportunity in accordance with the performance characteristics of the equipment	None
2635 / tank installer training	3 - 01	Sections 2635(d) and 2636(c) state that owners or their agents shall certify that installation of tanks and piping shall be made on form c. The cupa forms are now used in place of "form c" and the language should be changed to reflect this.	Rejected: not a comment on the regulations	None
2636 / under-dispenser containment	3 - 02	Section should be clarified to read "underground piping with secondary containment, including under-dispenser piping with secondary containment shall be equipped and monitored with monitoring systems and must be in compliance with subsections (1), (2) and (4) or subsections (1), (3) and (4) of this section."	Rejected: not a comment on the proposed regulations.	None
2636 / under-dispenser containment	3 - 03	Section 2636(f)(3) should be corrected to read to the dispenser instead of at the dispenser. Stopping the flow of product at the dispenser does not prevent product from leaking from the pipe.	Rejected: we specifically worded the revisions such that both mechanical and electrical dispenser shut-off devices would continue to be allowed for monitoring. This would not be the case if recommended language was included.	None

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2636 / under-dispenser containment	3 - 04	Section 2636(g)(3) should be corrected to read to the dispenser instead of at the dispenser. Stopping the flow of product at the dispenser does not prevent product from leaking from the pipe.	Same comment as 3 – 03.	None
2636 / under-dispenser containment	7 – 01	Section 2636(f) should be clarified to readily indicate what monitoring options available.	Same as comment 3 - 02	Same
2636 / under-dispenser containment	7 - 02	Change section 2636(g)(3) to read “all continuous monitoring systems for the piping shut down the pump and either activate an audible and visual alarm or stop the flow of product to the dispenser when they detect a leak.	Same as comment 3 - 03	Same
2636 / under-dispenser containment	8 - 02	2636 (h)(1)(b) should be amended to read “, as correctly identified and confirmed pursuant to the state geographic information system mapping database and reference section 2640(e)(2)&(3) which allows for correction of either distance to a public drinking water well or the existence of single walled components.	Rejected: a “correct” identification of a facility pursuant to the gis database is implicit in the regulation and does not need to be specified.	None
2636 / under-dispenser containment	9 - 03	It would seem to be necessary to specify that, in 2636(f), the requirements for monitoring also apply to dispensers equipped with the alternative spill containment system.	Accepted	Section 2611 will be amended accordingly
2636 / under-dispenser containment	9 - 04	Regarding 2636(g)(4) there appear to be practical problems with the requirement that the "pumping system shuts down automatically if any of the continuous monitoring systems for the piping fail or are disconnected"	Rejected: the regulatory language that is the subject of the comments is outside the scope of the proposed regulations.	None
2636 / under-dispenser containment	9 - 05	Regarding comment 9 – 04, although the goal of this requirement is noteworthy, we are not aware of any currently-available system which can detect the failure of a component or tampering.	Rejected: the regulatory language that is the subject of the comments is not part of the proposed regulations.	None
2637 / annual maintenance certification	3 - 06	Section 2637(b)(1) needs to clarify who is required to have the license, the company or the individual.	Clarification: same as 45-day comment s1 – 04.	Same as 45-day comment s1 - 04

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2637 / annual maintenance certification	3 - 07	Section 2637(b)(2) states that the annual monitoring certification shall be made on the monitoring system certification form. This section should read “all monitoring equipment certification shall be made on ...”, instead of only “annual monitoring equipment certification shall...”.	Rejected: the local agency has the option of requiring that all maintenance work be recorded on the monitoring system certification form and therefore, we do not see any reason to included this additional requirement in the regulations.	None
2637 / annual maintenance certification	6 - 01	See 45-day comments 113 – 01, 02, 03, and 04.	Same as 113 – 01, 02, 03, and 04.	None
2637 / annual maintenance certification	7 - 07	Change section 2637(b)(2) to read “ all monitoring equipment certifications shall be made on a “monitoring system certification” form (see appendix vi).	Same as comment 3 - 07	Same
2637 / annual maintenance certification	8 - 06	Regarding appendix vi - don’t see when the ust monitoring plot plan would be used since all sites must have monitoring and hazardous material management plans (hmmmps).	Clarification: the annual monitoring maintenance inspection form (app v1) is a separate document from the monitoring plot plan, which is required as part of the permitting process.	None
2637 / annual maintenance certificaton	7 - 06	Regarding section 2637(b)(1) We want to ensure has the <u>training</u> is mandated for hands-on technicians, but not the owner of the company for whom the technician works.	Accepted	Revised 2637(a)(1) to clarify as suggested
2637 / secondary containment systems	9 - 07	2637(a)(1). This section requires untestable systems be replaced. There will be cases where it should be feasible to "repair, modify, or upgrade" some types of existing systems so that they can be appropriately tested. We request that such an allowance be added.	Rejected: this is already allowed in the proposed regulations. If the secondary containment system can be repaired, modified, or upgraded so that it becomes testable, this would meet the requirement of “replacement.”	None
2637 / secondary containment test9ing	2 – 01	We request that the local agency be allowed a minimum of 60 days to process the approvals required by section 2637(a)(1).	Accepted in part: 45 days. The full 60 days is denied because: 1) we expect the workplans to be reasonably short and simple; and 2) we do not want to unnecessarily delay implementation of the workplans	Revised section 2637(a)(1) to allow 45 days
2637 / secondary containment testing	1 - 01	The proposed requirement that “secondary containment systems shall be tested to criteria no less stringent than those used at installation” may severely limit the periodic testing resulting in a defacto requirement to replace nearly all of the secondary containment systems	Rejected: the no less stringent criteria will not severely limit the ability to test secondary containment systems nor result in a “de-facto” requirement to replace secondary containment systems statewide.	None

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2637 / secondary containment testing	3 - 05	Regarding 2637(a)(1), the local agency should be allowed 60 days to respond to submittals due to the number of proposed workplans and programs that we may receive.	Same as comment 2 – 01.	Same as comment 2 - 01
2637 / secondary containment testing	7 - 03	For section 2637(a)(1), change the local agency review time to 60 days	Same as comment 2 - 01	Same
2637 / secondary containment testing	7 - 04	Change section 2637(a)(2) to allow approval of method by local agency	Rejected: since the local agency reviews and approves these monitoring and response plans during the permitting process, there is no reason to specifically require local agency approval in the secondary containment testing regulations	None
2637 / secondary containment testing	7 - 05	Does “state registered professional engineer” mean california or any state?	Answer: this is specific to california	None
2637 / secondary containment testing	8 – 03	Regarding 2637(2) for most pieces of equipment, the manufacturer will have test criteria for post installation testing, but his might not be “no less stringent then those used at installation.”	Same as comment 1 - 01	Same
2637 / secondary containment testing	9 - 06	Regarding 2637(a). Because the amendments will not be approved by oal until after january 1, 2001, it would seem appropriate to change the effective date, from january 1, 2001, to "... Six months after the date of adoption "	Rejected: not necessary. Those ust systems installed after january 1, 2001 will not be required to conduct the six-month follow up test if the proposed regulations do not become law within six months of that particular installation.	None
2637 / secondary containment testing	9 - 08	Regarding 2637(a)(2), the requirement that systems be "tested to test criteria no less stringent than those used at installation" is vague and there might be cases where there is a conflict with a manufacturer's post-installation testing guidelines	Same as comment 1 - 01	Same
2637; 2644.1 / secondary containment testing, annual maintenance certification enhanced leak detection	2 - 02	We therefore request that the minimum inspection notification period be increased to 72 hours, or a statement be inserted to allow a local agency to specify a longer notification period.	Rejected: local agencies already have the authority to either waive the notification requirement, or increase it, thus there is no need for a specific provision in the regulations.	None

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2640 / enhanced leak detection	3 - 08	Section 2640(e)(2) should include a time frame for swrcb review of appeals so that the local agency knows when to require compliance.	Accepted	Revised 2640 to req. Swrcb review within 90 days
2640 / enhanced leak detection	7 - 08	Change section 2640(e)(2) to include a 90 day timeline for response by the program manager.	Accepted	Revised 2640(e)(2) accordingly
2644.1 / enhanced leak detection	1 - 03	The agency has now proposed an even more stringent leak detection criteria of .005. We are concerned that this mandated monopoly will result in unreasonable pricing.	Rejected: same comments as 45-day LS20 – 01, and LS21 – 09.	None
2644.1 / enhanced leak detection	5 – 01	The comment is in regards to subsection 2644.1(a)(2). The new proposed leak of 0.005 is not attainable and should be put on the back burner until such time as industry has time to verify that such equipment exists by more than one manufacture.	Rejected: the proposed method was chosen because, among other reasons, it was capable of being third-party certified to a leak rate sensitivity of 0.05 gph, and recently has been third-party certified to a leak rate sensitivity of 0.005 gph.	None
2644.1 / enhanced leak detection	8 – 04	Regarding 2644.1(a)(2), we are opposed to reducing the leak detection standard to .005 gph because even a 5% false alarm rate will be very costly when considering excavation to address “apparent” ust system leaks.	Rejected: the 95/5 reliability standard is the same standard that is used for all other ust monitoring, thus the assertion that the proposed method has a “high degree” of false positives is misleading, since we expect there to be no more than for any other third-party-approved monitoring method	None
2644.1 / enhanced leak detection	8 - 05	The state should confirm that any proposed monitoring standard is achievable by more than one company. We are concerned that these low standards will create a monopoly for the tracer tight technology.	Same as 45-day comment L20 - 01	Same
2644.1 / enhanced leak detection	9 - 09	Regarding 2644.1(a)(1), there is, to the best of our knowledge, only one technology which fully meets the criteria as set forth in this section and we are concerned about being "married" to a sole-source supplier.	Same as 45-day comment L20 - 01	Same
2644.1 / enhanced leak detection	9 - 10	The swrcb is currently embarking on its field-based research program using the proposed enhanced leak detection method and requirement of this method should be delayed until these results are in.	Same as 45-day comment LS21 - 10	None

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2644.1 / enhanced leak detection	9 - 11	Regarding 2644.1(a)(2), the change. To a level of 0.005 gph, results in facilities being "wedded" to a sole-source supplier to an even greater degree.	Essentially the same comment as 45-day L20 - 01	None
26440 / enhanced leak detection	1 - 02	We do not know how to appeal the enhanced leak detection requirement for those systems that will be re-constructed to double-walled structures following the gis notification but prior to the enhanced leak detection deadline.	Clarification: same comment as 45-day LS21 – 16.	None
2660 / under-dispenser containment	9 - 12	Regarding 2660(h) change the second sentence to read as follows: "requirements for under-dispenser containment, or under-dispenser spill control systems, shall be completed no later than december 31, 2003."	Accepted	Revised 2660(h) accordingly
General comments on chapter 16	4 - 01	General comments	Rejected: mostly not comments on proposed regulations, no explanation given for other comments.	None